IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

LAND ACQUISITION REFERENCE NO.2 OF 1987

The Special Land Acquisition
Officer (7)

Vs.

Shri Mohamed Yusuf Khot & Ors. ..Claimants

Mr.N.A.Walawalkar with Mr.M.G.Gawze for the Claimants.

Ms.S.M.Dandekar for the S.L.A.O.

Mr.H.C.Pimple for the B.M.C.

CORAM: S.U. KAMDAR, J.
DATED: 29TH NOVEMBER, 2004

P.C. :

The present L.A.R. is filed under section 30 of the Land Acquisition Act. The learned counsel Mr.Walawalkar, appearing for the trust makes a statement that there is no inter-se dispute amongst the trustees or beneficiaries and, therefore, the issue pertaining to the ownership in so far as the inter-se trustees or beneficiaries are concerned, is not required to be determined in the present proceedings. In any event, the trustees have lead evidence in the form of an affidavit. There is no serious cross-examination and, therefore, the

ownership of the trustees is established.

2. The trustees of the Mohamed Yusuf Trust are the owners in respect of the land forming part of Survey No.41 part, 42 part, 48 part and 8 part of village Tungwa and Paspoli, Tashil Kurla, Dist. B.S.D., situated at Powai, Andheri (East) Mumbai. The land was acquired under Notification dated 21.9.1957 issued under the provisions of section 4 of the Land Acquisition Act for the public purpose i.e. for making an approach road to Chlorination House at Powai, Bombay.

3. In so far as Chittaranjan Chandrabhan Sharma is concerned, who was claiming interest in the said land, he has accepted the payment of Rs.39,087/- awarded to him under the award as and by way of compensation received by him. He is not appearing in the present proceedings and, therefore, as far as Chittaranjan Sharma is concerned, his claim stands satisfied under the award.

4. Mr.Walawalkar for the trustees of Mohamed Yusuf Trust states that they have not withdrawn the amount of compensation which is lying deposited in this Court. Mr.Walawalkar contends that in place of

allowing them to withdraw the said amount of compensation which is lying deposited in this Court, the Court should direct the B.M.C. to consider the issuance of T.D.R./F.S.I. in lieu of the said compensation amount in accordance with the provisions of Maharashtra Regional And Town Planning Act, 1966 and Development Control Regulation, 1991. Mr.Walawalkar has drawn my attention to the order passed by Baam, J. in Land Acquisition Reference No.49 of 1987 on 23rd October, 1997 giving similar directions.

5. In my view, the Corporation being not a party to the present Land Acquisition Reference, it is not possible to issue any such directions. But, it is made clear that the Corporation is at liberty to consider the application of the trust, if made by them within the period of two weeks from today to obtain T.D.R./F.S.I. in lieu of compensation and, if the Corporation finds the same favourable and in accordance with the provisions of law, then the Corporation shall consider the same favourably.

7. If, in the event the Corporation accepts the said application and grants T.D.R./F.S.I. in lieu of the compensation amount, then, in that event, the

Corporation will be at liberty to withdraw the amount lying deposited in the Court to the credit of the present reference which is an amount of compensation to be awarded to the Mohamed Yusuf Trust.

8. In the event, if the Corporation refused such an application of the trustees of the Mohamed Yusuf Trust, then the trust will be entitled to withdraw the amount of compensation lying in the present proceedings as and by way of compensation.

9. The trustees of the Mohamed Yusuf Trust are directed to communicate a copy of this order to the Corporation so as to enable them to consider the application of the trustees of the Mohamed Yusuf Trust who are the claimants, favourably and in accordance with law.

10. With the aforesaid directions, the present Land Acquisition Reference stands disposed of.